

Section 205 Delegable Functions Team

Minutes - December 2, 1996

Teleconference Participants:

Jim Detlefs, MMS
Paul Kruse, Wyoming
Maurice Lierz, Western States Land Commissioners Association
Dave Steiber, MMS
Spencer Reid, Western States Land Commissioners Association
Larry Cobb, MMS
Cecelia Williams, MMS
Sherri Thompson, BLM
Dave Loomis, STRAC
Jim Carter, Western Governors' Association
Bob Prael, MMS
Sam Wilson, MMS

Recorder: Larry Cobb

Action Items:

Fax meeting location information out to State representatives - Jim
State representatives will forward information to their contacts - States
Draft regulation by end of month - Cecelia and Larry
Get listing for States contacts - Bob
Phone States who receive payments - Bob, Dave, and Sam
Finalize and fax revised regulatory framework by week's end - Cecelia and Larry
Prepare overhead slides for meeting presentations - Cecelia and Larry
Reconfirming inclusion of 8(g) and solids in delegation with MMS management - Jim
Contact PSO for staff member to conduct MMS tour on December 12 after 1 pm - Cecelia

Outreach letter to Governors:

- Letter went out. MMS has received a few responses at this time regarding interest in attending outreach meetings. MMS will contact States regarding further interest.

Outreach meetings with States:

Meetings in:

New Orleans	December 11	Radisson
Denver	December 12	Four Points Hotel
Oakland	December 13	Oakland Marriott

- All meetings will start at 9:30.

- Plan on accommodations for 30 -35 people.
- New Mexico will include representatives from all four New Mexico agencies: Arlie Williams, Val Severson, Maurice Lierz, and Ron Merrett.
- We discussed how to effectively involve States' representatives at the meetings, including Governors' representatives and regulatory officials.
- The MMS team members will telephone the State contacts that were copied in on the Governors' letters sent out to States.
- BLM will continue to participate in meetings.
- State involvement was stressed again.

Regulatory Framework:

- One goal is to address performance measurement.
- How much detail to put in regulation (how to describe a function that can be measured)?
- and how much in standards?
- need detailed standards that will be incorporated (in the regulation) by notice.
- MMS will write regulation in plain English - MMS brought in writing consultant.
- Meetings will be informative and for coordination - not much feedback is expected for input to regulation, but possibly there will be more feedback for the standards.

Meeting Presentation Items:

- Give a quick overview of where reg is going.
- Show the breakdown of functions, e.g. inspections, audit, report processing.

Regulatory Review Comments:

- Pluralize "lessee" to prevent one lessee from stopping the process.
- Can State vouchers and compensation be monthly? Yes, quarterly was only a minimum.
- Outreach provisions will be in preamble to reg, as will discussion points raised and States comments and concerns, such as areas of disagreement on collection and disbursement issues.
- Preamble will also discuss States participation in the task force.

- What type of coordination should there be with Compliance Reengineering Plan (CREEP).
- Need to consider coordination of audit activities with non-audit activities, and also with BLM.

State Advisory Committee:

- Any more detail on how regs or standards will be modified? No, the idea of an advisory committee has not been decided yet.
 - Should identify a single State contact point.
 - Should identify potential State participants on committee.
 - What level of State representative should participate?
- Committee should be more of a working group and less a policy group - make improvements, recommendations - maybe both levels needed.
- Put details in reg?
- Makeup/duties of group to be decided by this team - need to spell out in MMS's guidelines
 - Do we need to make it official?
 - MMS response: We will provide something modeled after we already have (like STRAC). It's not official now, but it will be.
- We will plant a seed now and get some feedback at the meetings on how to develop/implement standards modifications and how to involve States.

Terminology:

- Questions over use of "including" and "including but not limited to"
 - MMS will review and make changes for consistency - use "for example."
- One state thought that the regs should spell out the three areas of delegation - the BLM enforcement and inspection should be fairly straightforward - however, the financial accounting may be more difficult.

BLM Functions:

- Sherri Thompson and the State representatives discussed the BLM regulatory framework regarding the BLM enforcement and inspections (I&E).

- BLM asked the States whether they would be interested in the collection of assessments and penalties if allowable under FOGDMA and the RSFA.
- Some states indicated an interest in assuming I&E functions; others favored having options to see what's useful or not useful.
- Page 2 of framework, "How will the Director evaluate the delegation request?" BLM tracked the statute language which requires the delegation to appear seamless.
- Page 2, #4 - States can adopt BLM's inspection procedures, unless the State and all affected parties agree otherwise. The IOGCC will work on developing a standardized program for all States to use. The States would like to demonstrate to BLM that their inspection programs meet the same goals and are as effective as BLM's - add a # 7 to accomplish this.
- A letter from the governor to BLM could provide suggestions on negotiating standardized procedures.
- What are the terms of the delegation? - #10:
- the term "certified" implies Federal certification - change to "qualified."
- Page 4 - BLM should provide more detail in the Standards and Requirements section, similar to page 4 of the MMS framework. Clarify that State rules are okay as long as they are "no less effective than" Federal requirements.
- Page 5, #4 - the standards could refer to API standards and therefore would not have to be written out in detail - However, beware of API standards coming under scrutiny because of the Grynberg lawsuit - they may need tightening up.
- Does "within the State" include 8(g)? - MMS will revisit this issue as well as for solids and geothermal. The '92 Appropriations Act indicates that coal and geothermal are included. However, BLM is not ready yet to pursue coal delegation.
- Public and acquired - must States take on all classes of leases? - Regs won't specify all - especially 8(g) for inspections.

States want a discussion of coal and geothermal in the preamble.